

**REMARKS**

The above amendments and these remarks are responsive to the Office Action mailed on October 11, 2001. Claims 14, 15, 18 and 21 have been amended for clarity. Claims 14-26 are now pending in this application. Reconsideration on the basis of the above amendments and remarks below is kindly requested.

The Examiner objected to the drawings and specifically to Figures 1, 4, 5, 8, 9 and 11. In the Proposed Amendment to the Drawings being filed concurrently herewith, Figures 1, 4, 5, 8, 9 and 11 have been amended. Figure 1 has been amended to show lines a through g and to delete reference to elements h through q. Figure 4 has been amended to include the label T(r). The x and y axes in Figure 4 are already labeled T and r, respectively. Figures 5a and 5b have been amended to label the power and impedance lines. Figure 8 has been amended by deleting the labels U and I and by changing the element designated by the label R to a resistor symbol. It is well known in the art that R stands for a resistor. Figure 9 has been amended to delete the term "FDM". Figure 11 has been amended to delete reference numeral 87.7. Furthermore, amendments have been made to Figure 11 to clearly show the outputs from element 87.4 to elements 84, 85, 83 and 81 and the input to element 87.4 from element 86 so as to correspond to the inputs and outputs shown in Figure 8. No new matter has been added.

The Examiner stated that item 87.5 is described as an input unit, yet Figure 11 shows no inputs. Furthermore, the Examiner stated that if the input unit is intended to be a keyboard, it should so be labeled. In Figure 11, an arrow is drawn from input unit 87.5 to display 87.6, thus showing an input from the input unit 87.5. In addition, the input unit can be any type of input unit for inputting data.

The Examiner objected to the Abstract of the Disclosure. The Abstract of the Disclosure has been amended to overcome this

objection. A Substitute Abstract of the Disclosure is submitted concurrently herewith incorporating the amendments made herein.

The Examiner objected to the Disclosure based on formalities. The Disclosure has been amended to overcome these objections.

The Examiner rejected claims 15, 17, and 23 under 35 USC §112, second paragraph as being indefinite. More specifically, the Examiner stated that in claim 15 the temperature is stated without a scale. Claim 15 has been amended to now recite the temperature in Degrees centigrade.

The Examiner objected to claim 17 in that the temperature control device as claimed therein was not clearly defined and conflicted with the drawings. Applicant respectfully disagrees. Claim 17 is dependent from claim 14 and requires that the temperature control device includes a temperature controllable fluid source which is in communication with one of the at least one electrode and the electrode control. There is nothing inconsistent with the subject matter of claim 17 and what is shown in the drawings. For example, in Figure 8, fluid source 83 is in communication with the electrode 82.

In rejecting claim 23 the Examiner stated that the specification shows two calculation units, namely units 87.2 and 87.3, and it is not clear from claim 23 as to which calculation unit the claim refers to. Claim 21 from which claim 23 is indirectly dependent from has been amended to now recite "an effective temperature profile calculation unit" so as to clarify which calculation unit is involved. As such, applicant submits that the rejections to claims 15, 17 and 23 under 35 USC §112, second paragraph had been overcome.

The Examiner rejected to claims 14-26 under 35 USC §102(a) as being anticipated by WO 96/34571 to Cosman, et al. Claim 14 as now amended is directed to an electrosurgery apparatus comprising an electrode carrier, at least one electrode on the electrode carrier, an alternating current source connected to the electrode, a temperature control device for the electrode and the electrode

carrier, and a fluid heater for heating the at least one electrode and the electrode carrier independent of the amplitude of the alternating current flowing through at least one electrode.

According to Cosman, heating of the electrode arrangement is achieved by current flow through the patient's body tissue. Fluid flow is only provided to cool the electrode but not to heat the electrode. Cosman does not disclose a fluid heater for heating the at least one electrode and electrode carrier independent of the amplitude of the alternating current flowing through the at least one electrode. As such, applicant submits that claim 14 as now amended is not anticipated by Cosman.

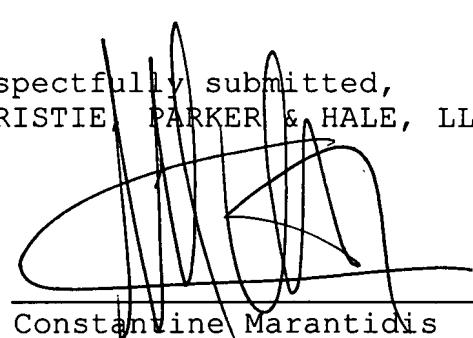
Claims 15-26 are directly or indirect dependent from claim 14. Claim 14 is now believed to be in condition for allowance. As such, applicant submits that claims 15-26 are also in condition for allowance as being dependent from an allowable base claim and for the additional limitations they contain therein. For example, claim 18 is dependent from claim 14 and requires that one of the least one electrodes and the electrode carrier has a thermoelectric heating and cooling device. Cosman only discloses a cooling device associated with the system and not a thermoelectric heating device as required by claim 18. As such, applicant submits that claim 18 is also allowable over Cosman for this additional reason.

The rejections and objections to all claims pending in this application are believed to have been overcome and this application is now believed to be in condition for allowance. Should the Examiner have any remaining questions or concerns about the allowability of this application, the Examiner is kindly requested to call the undersigned attorney to discuss them.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Respectfully submitted,  
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